



Department of Justice

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JAPANESE COMPANY AGREES TO PLEAD GUILTY TO PARTICIPATING IN DRAM PRICE- FIXING CONSPIRACY

Elpida Memory Inc. Also Agrees to Pay \$84 Million Criminal Fine

WASHINGTON, D.C. – Elpida Memory Inc. (Elpida), a Japanese manufacturer of dynamic random access memory (DRAM), has agreed to plead guilty and to pay an \$84 million fine for participating in an international conspiracy to fix prices in the DRAM market, the Department of Justice announced.

Including today's charge, four companies and five individuals have been charged resulting in more than \$730 million in fines from the Department's ongoing antitrust investigation into price fixing in the DRAM industry.

According to the two-count felony charge filed today in the U.S. District Court in San Francisco, from April 1, 1999 to June 15, 2002, Elpida conspired with unnamed DRAM manufacturers to fix the prices of DRAM sold to certain computer and server manufacturers. The customers directly affected by the price-fixing conspiracy were: Dell Inc., Compaq Computer Corporation, Hewlett-Packard Company, Apple Computer Inc., International Business Machines Corporation, and Gateway Inc. In addition, Elpida conspired with an unnamed DRAM manufacturer to rig a bid for a lot sold to Sun Microsystems Inc. in March 2002. Under the plea agreement, which must be approved by the court, Elpida has agreed to cooperate with the government in its ongoing investigation of other DRAM producers. Upon entry of the plea

agreement with Elpida, the Department will also enter into Cooperation and Non-Prosecution Agreements with Elpida's corporate predecessors, NEC Corporation and Hitachi Ltd.

“Today’s charge demonstrates our continuing commitment to prosecute and deter cartels that harm American consumers,” said Thomas O. Barnett, Acting Assistant Attorney General in charge of the Department’s Antitrust Division. “We are gratified to bring to justice another member of the DRAM cartel, which is one of the largest cartels ever discovered.”

DRAM is the most commonly used semiconductor memory product, providing high-speed storage and retrieval of electronic information for a wide variety of computer, telecommunication, and consumer electronic products. DRAM is used in personal computers, laptops, workstations, servers, printers, hard disk drives, personal digital assistants (PDAs), modems, mobile phones, telecommunication hubs and routers, digital cameras, video recorders and TVs, digital set top boxes, game consoles, and digital music players. There were approximately \$7.7 billion in DRAM sales in the United States in 2004. Elpida is the world’s fifth-largest DRAM manufacturer.

Elpida is charged with carrying out the price-fixing conspiracy by:

- Participating in meetings, conversations, and communications in the United States and elsewhere with competitors to discuss the prices of DRAM to be sold to certain customers;
- Agreeing, during those meetings, conversations, and communications, to charge prices of DRAM at certain levels to be sold to certain customers;
- Issuing price quotations in accordance with the agreements reached; and
- Exchanging information on sales of DRAM to certain customers, for the purpose of monitoring and enforcing adherence to the agreed-upon prices.

Elpida is charged with carrying out the bid-rigging conspiracy by:

- Participating in meetings, conversations, and communications in the United States and elsewhere to discuss allocating (*i.e.*, dividing up) a bid offered by Sun among

themselves;

- Agreeing, during those meetings, conversations, and communications, to allocate a bid offered by Sun;
- Allocating, in accordance with the agreements reached, a bid offered by Sun among themselves, denying Sun a competitive price;
- Participating in meetings, conversations, and communications to discuss the submission of prospective bids for a bid offered by Sun to purchase one lot of a particular DRAM product;
- Agreeing, during those meetings, conversations, and communications, to submit complementary bids to ensure the success of their agreement; and
- Submitting complementary bids for one lot of a particular DRAM product, denying Sun a competitive price.

“Elpida is the fourth company to agree to plead guilty to price-fixing charges in our investigation of antitrust violations in the DRAM industry,” said Scott D. Hammond, the Antitrust Division’s Deputy Assistant Attorney General for Criminal Enforcement. “Elpida will provide valuable assistance in our continuing investigation of the DRAM industry.”

In October 2004, German manufacturer Infineon Technologies AG pleaded guilty and was sentenced to pay a \$160 million criminal fine for its role in the DRAM conspiracy. In May 2005, Korean manufacturer Hynix Semiconductor Inc. pleaded guilty and was sentenced to pay a \$185 million criminal fine. In November 2005, Korean manufacturer Samsung Semiconductor Inc. and its parent company Samsung Electronics Company Ltd. pleaded guilty and were sentenced to pay a \$300 million criminal fine.

Four Infineon executives, T. Rudd Corwin, Peter Schaefer, Gunter Hefner, and Heinrich Florian, pleaded guilty to the DRAM price-fixing conspiracy in December 2004. The Infineon

employees served jail terms ranging from four to six months and each has paid a fine of \$250,000. Three of the charged Infineon employees are German citizens.

In December 2003, the Department charged Alfred P. Censullo, a Regional Sales Manager for Micron Technology, Inc., with obstruction of justice. Censullo pleaded guilty to the charge and admitted to having withheld and altered documents responsive to a grand jury subpoena served on Micron in June 2002. Censullo was sentenced to serve six months of home detention.

Today's charge is the result of an ongoing investigation being conducted by the Antitrust Division's San Francisco Field Office and the Federal Bureau of Investigation in San Francisco.

Anyone with information concerning price fixing in the DRAM industry should contact the San Francisco Field Office of the Antitrust Division at (415) 436-6660 or the San Francisco Division of the FBI at (415) 553-7400.

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